

ORDINANCE NO. 7180

ORDINANCE CREATING SECTION 13.12.066 ENTITLED “MOBILE FOOD ESTABLISHMENTS” AND AMENDING SECTION 9.76.100 ENTITLED “PARKS—COMMERCIAL ENTERPRISES” AND SECTION 13.12.060 ENTITLED “SALE OF GOODS” OF THE CITY CODE OF ORDINANCES.

THE CITY COUNCIL OF THE CITY OF EAU CLAIRE DO ORDAIN AS FOLLOWS:

SECTION 1. *That s.13.12.066 entitled “Mobile Food Establishments” is hereby created to read as follows:*

13.12.066 Mobile Food Establishments. The city clerk or designee may issue licenses for mobile food establishment vendors for the sale of specified food and beverage items from mobile food establishments on the public streets and in certain specified locations in city parks which shall be operated and conducted in accordance with the requirements and limitations expressed in this section.

A. Notwithstanding the provisions of section 9.76.100 and section 13.12.060 of this code, no mobile food establishment shall vend, sell or dispose of or offer to vend, sell or dispose of any food or beverage items, produce or any other thing on any public street or any public property whatsoever in the city of Eau Claire, without having obtained an approved license from the city clerk or designee.

B. Each applicant shall file an application with the city clerk or designee on forms provided by the city for each proposed mobile food establishment. The city clerk or designee may require such information on the application as the city clerk or designee considers reasonable and necessary.

C. Each applicant shall pay an annual fee in an amount as stated in the city of Eau Claire fees and licenses schedule for each proposed mobile food establishment.

D. All mobile food establishment licenses shall expire on June 30th of each year, subject to renewal year to year thereafter.

E. No license shall be issued unless the mobile food establishment has successfully passed an inspection performed annually by the city of Eau Claire Fire Department.

F. No license shall be issued unless the mobile food establishment has been licensed for such use by the City-County Health Department and has a valid restaurant license from the city. Mobile food establishments shall acquire all licenses and permits for any additional food or beverage items deemed necessary by the City-County Health Department, even if not explicitly required by this section, for public health, safety or welfare purposes.

G. Each mobile food establishment shall be separately licensed and such license shall not be transferable to another mobile food establishment. Such license shall be conspicuously displayed within the mobile food establishment.

H. The licensee or the licensee's employee or agent shall be present within the vending site at all times during which items are displayed or sold.

I. A mobile food establishment shall meet the following vehicular requirements:

1. A mobile food establishment shall be designed and constructed specifically for the purpose of vending the product or products to be vended; and

2. A mobile food establishment shall have valid license plates and registration as required by Chapter 341, Wis. Stats; and

3. A mobile food establishment shall be in compliance with all Federal, State and local laws or regulations which govern motor vehicles, including, but not limited to, vehicle size requirements; and

4. A mobile food establishment shall be in safe, operable condition with no visible signs of rust or other deterioration; and

5. A sidewalk cart licensed under section 13.12.065 shall not qualify as a mobile food establishment and shall be exempt from this section.

J. All mobile food establishments shall be equipped with at least two (2) leak-proof, approximately thirty (30) gallon containers for the deposit of refuse, one container designated for trash and the other for recyclables. The licensee and his or her employee(s) shall be responsible at all times

for the removal of all refuse resulting from his or her business or customer's use of his or her business. Such refuse shall be placed solely in the mobile food establishment's waste bins. No mobile food establishment shall discharge any material onto the street, sidewalk, gutters, storm drain or the property of another, including, but not limited to, public property.

K. The licensee shall permanently and prominently paint on or affix to the mobile food establishment a sign no smaller than twelve (12) inches by twelve (12) inches displaying, at a minimum, the name, address, and telephone number of the licensee. Such required information shall substantially fill the entire minimum space described herein. No separate free-standing signs shall be permitted in any location.

L. Each licensee shall provide proof of liability insurance for any single accident and for any property damage in the amount of \$1,000,000.00. Such liability insurance shall be in effect at all times the mobile food establishment is licensed in accordance with this section. A certificate of insurance for such coverage shall be delivered to the city clerk or designee prior to issuance of a license. If such insurance coverage is cancelled, not renewed, or materially changed, the insurer and licensee shall immediately provide notice to the city clerk or designee by certified mail. Failure to maintain such insurance may result in the suspension or revocation of the license.

M. Each licensee shall comply with all state codes and standards relating to the serving and selling of food or food products.

N. No mobile food establishment shall use bells or lights or any other noise-makers, other than music, to attract customers. Such music shall not be used after 9:00 p.m. on any day and shall maintain compliance with chapter 9.56 at all times.

O. No mobile food establishment shall operate before 8:00 a.m. or after 11:00 p.m.

P. A mobile food establishment shall comply with the following operation location requirements:

1. A mobile food establishment shall not be permitted to operate in those areas of the city and any adjacent streets that are situated within a residential zoning district in accordance with chapter 18.04 and any amendments thereto; and

2. A mobile food establishment shall not violate any traffic statute or ordinance; and

3. A mobile food establishment shall comply with all parking restrictions or other requirements and in any event shall not operate in any one location or parking spot, including in city parks, or along any one city block or equivalent length of street for a duration exceeding four (4) hours on any given day. Parking exemptions shall not be issued to a licensee under this section; and

4. A mobile food establishment, licensee or the licensee's agent or employee shall not reserve or otherwise hold parking spots on the public streets or in city parks; and

5. No mobile food establishment shall operate in or on any alley, boulevard, sidewalk, city trail, city park or public land unless:

a. specifically authorized through the special event approval process in section 9.59.030; or

b. operating in a designated location within Owen Park, Phoenix Park, Carson Park, Riverview Park, Soccer Park or Pinehurst Park per specifications of a license issued in accordance with this section; and

6. No mobile food establishment shall operate on any public street within 200 feet of any business holding a valid restaurant license from the City-County Health Department and a valid restaurant license from the city; and

7. No mobile food establishment shall operate in a congested area where such operation impedes or inconveniences public use, and shall at all times provide at least four (4) feet of width on all sides for clear and unobstructed pedestrian, bicycle, or other permissible use; and

8. No mobile food establishment shall obstruct an adjacent path or lane of travel, including motor vehicle lanes, bicycle lanes, sidewalks, trails or other designated parking areas; and

9. No mobile food establishment shall conduct business within 20 feet of the intersection of the sidewalk with any other sidewalk; and

10. No mobile food establishment shall conduct business within 10 feet of the extension of any building entrance or doorway to the curb line; and

11. No mobile food establishment shall conduct business within the same park or within 500 feet, whichever is greater, of any special event authorized in accordance with section 9.59.030, any pavilion rental, any other city facility rental or any sporting event scheduled through the city Department of Parks, Recreation and Forestry for one hour prior to, during, or one hour after the event or other

scheduled use or rental period, unless specifically requested by the event organizer or special event permit holder and such request is obtained in writing and kept in the mobile food establishment; and

12. No mobile food establishment shall use City water, electricity or other utilities in the course of its operations in accordance with this section.

Q. All business activity relating to the mobile food establishments in the public right-of-way shall be conducted from the curbside of the vehicle at all times.

R. The denial of a license under this section may be appealed to the administrative review board in accordance with chapter 1.06.

S. The penalty for violation of any provision in this section shall be a forfeiture of not less than \$50.00 per day nor more than \$500.00 per day for each violation, together with the cost of prosecution.

SECTION 2. That s. 9.76.100 entitled “Parks—Commercial enterprises” is hereby amended to read as follows:

9.76.100 Parks--Commercial enterprises. A. No person shall sell or offer for sale any article, thing, privilege or service in any park without prior permission of the city council or without the issuance of special events permit approved by the director of parks and recreation and as necessary the chief of police or the designee of that person. Such sales shall include the charging of an admission or entry fee for the participation or inclusion in a special event. This section shall not apply to mobile food establishments licensed in accordance with section 13.12.066 of this code.

SECTION 3. That s. 13.12.060 entitled “Sale of goods” is hereby amended to read as follows:

13.12.060 Sale of goods. It is unlawful for any person, firm or corporation to set up or park any stand, wagon, automobile or other vehicle upon any of the public streets, sidewalks, boulevards, parkways or alleys in the city for the purpose of selling therefrom or exposing for sale any meat, provisions, popcorn, ice cream, confections, refreshments or other eatables or any goods, wares or merchandise, or for carrying on any business or trade whatsoever. This section shall not apply to mobile food establishments licensed in accordance with section 13.12.066 of this code.

SECTION 4. That the City of Eau Claire Fees and Licenses Schedule is hereby revised to reflect the annual license fee of \$250.00. Amendments to the license fee may be made by City Council resolution.

SECTION 5. The provisions of this ordinance shall take effect immediately after passage and publication.

(SEAL) President Kerry J. S. Kincaid

(SEAL) City Manager Dale Peters

(ATTESTED) City Clerk Donna A. Austad

First Reading March 8, 2016
Final Reading March 22, 2016
Adopted March 22, 2016
Published March 22, 2016